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18 **UNITED STATES DISTRICT COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**

20 **ALEXIS CERNAS; JOHN I.C. DOE,**
21 a minor, **JANE I.C. DOE,** a minor, by
22 and through their guardian ad litem
23 Maritza Casillas; and, **BEATRIZ**
24 **LOERA,**
25 Plaintiffs,
26 v.
27 COUNTY OF LOS ANGELES,
28 CARLOS MACIEL, and DOES 1
through 10, inclusive,
Defendants.

Defendants.

Case No. 2:24-cv-03261-SPG-SK

(Hon. Judge Sherilyn Peace Garnett
Hon. Magistrate Judge Steven Kim)

JOINT RULE 26(f) REPORT

Initial Complaint filed: April 19, 2024
Def. County Answer filed: May 29, 2024
Defendant Carlos Maciel Answer filed:
June 6, 2024
(Proposed) Trial Date: October 21, 2025

1 **TO THE HONORABLE COURT:**

2 Pursuant to Federal Rules of Civil Procedure Rule 26(f), Local Rule 16-1, and
 3 the Court's May 31, 2024 Order setting the Scheduling Conference [Dkt. No. 29],
 4 the early meeting of counsel has been conducted between counsel for Plaintiffs
 5 ALEXIS CERNAS; JOHN I.C. DOE, a minor, by and through his guardian ad litem
 6 Maritza Casillas; JANE I.C. DOE, a minor, by and through her guardian ad litem
 7 Maritza Casillas; and, BEATRIZ LOERA, ("Plaintiffs") and counsel for Defendants
 8 County of Los Angeles and Carlos Maciel (collectively, "the Parties"). The Parties
 9 have discussed the nature and basis of their claims and defenses, the potential for
 10 resolving the case, the timing of initial disclosures, and a proposed discovery plan.
 11 The parties, through their counsel, respectfully submit the following Joint Report.

12 1. Statements of the Case:

13 a. *Plaintiffs:* On August 7, 2023, Deputies from the Los Angeles
 14 County Sheriff's Department, including Defendant Carlos Maciel,
 15 responded to a 9-1-1 call at a gas station located on the 17400 block
 16 of S. Central Avenue in the City of Carson, in the County of Los
 17 Angeles. The call was regarding a man, later identified as Arturo
 18 Cernas ("Mr. Cernas" or "Decedent"). When the Deputies arrived,
 19 they pointed less-lethal and lethal weapons at Mr. Cernas, who they
 20 had reason to believe may have been experiencing a mental health
 21 crisis. Mr. Cernas complied with the Deputies' commands and
 22 placed his hands above his head, turned so that his back was facing
 23 the Deputies, and got on his knees. Mr. Cernas began to discard
 24 items out of his backpack and his pants' pockets away from his
 25 person. At that time, one deputy deployed a less-lethal round at Mr.
 26 Cernas. Almost simultaneously, and without issuing any warning,
 27 Defendant Carlos Maciel fired at least four lethal rounds at Mr.
 28 Cernas, fatally striking him multiple times, including to his back. At

1 all relevant times, Mr. Cernas was unarmed and posed no imminent
2 threat of death or serious bodily injury to the Deputies or any other
3 person. Even though the Deputy Defendants, including Defendant
4 Carlos Maciel, were not faced with an immediate threat of death or
5 serious bodily injury and had less than lethal alternatives available
6 to them, they did not use, let alone exhaust these alternatives.

7 b. *Defendants*: Los Angeles County Sheriff's Deputies responded to a
8 call for service regarding plaintiffs' decedent. Plaintiffs' decedent
9 failed to comply with requests from the deputies and reached for
10 what appeared to be a weapon. Defendants responded to the threat.
11 Defendants deny the allegations of Plaintiffs and deny that Plaintiffs
12 sustained any injury or damage as a result of the actions of
13 Defendants.

14 2. Subject Matter Jurisdiction:

15 Plaintiffs have filed federal claims pursuant to 42 U.S.C. § 1983.
16 Accordingly, the parties do not dispute that this Court has jurisdiction over this
17 matter pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and over
18 Plaintiffs' claims under state law pursuant to 28 U.S.C. § 1367, as those claims are
19 so related to Plaintiffs' federal claims that they form part of the same case or
20 controversy.

21 3. Legal Issues:

- 22 a. Whether the Defendant Officers used excessive or
23 unreasonable force against Decedent;
24 b. Whether the involved Defendant Officers' actions were
25 reasonable under the circumstances within the meaning
26 of Fourth and Fourteenth Amendment jurisprudence;
27 c. Whether the Defendant Officers denied timely medical
28 care to Decedent;

- d. Whether the Defendant Officers unlawfully interfered with Plaintiffs' familial relationship with Mr. Cernas;
- e. Whether Defendant County of Los Angeles failed to adequately train its deputies;
- f. Whether any policies or customs of Defendant County of Los Angeles were the moving force resulting in a violation of Mr. Cernas's rights;
- g. Whether the Defendants were negligent toward Mr. Cernas;
- h. Whether any individual Defendant is entitled to qualified immunity on the §1983 claim;
- i. Whether any individual Defendant acted with evil motive or intent, or reckless or callous indifference toward Plaintiffs, entitling them to punitive damages;
- j. The nature and scope of Plaintiffs' damages; and
- k. Whether Plaintiffs are entitled to punitive damages.

4. Parties, Evidence, etc.:

Parties: The parties are Plaintiffs Alexis Cernas; John I.C. Doe, a minor, Jane I.C. Doe, a minor, by and through their guardian ad litem Maritza Casillas; and, Beatriz Loera, and Defendants County of Los Angeles, Carlos Maciel, and Does 1-10.

Witnesses: The percipient witnesses include Los Angeles County Sheriff's Department deputies and personnel present at the scene of the incident, relevant personnel not at the scene including medical professionals and coroners assigned to the matter. Additional non-percipient witnesses may include expert witnesses and witnesses on Plaintiffs' damages. Given that discovery has not yet been completed, the parties have not yet identified all other witnesses.

///

1 Key Documents Plaintiffs May Use:

2 The key documents include Los Angeles County Sheriff's Department
3 records regarding the incident, including but not limited to, statements, reports,
4 audio and/or video of the incident, and photographic evidence. Additional
5 documents may include County training policies and records; depositions of the
6 parties and witnesses; and responses to written discovery.

7 Key Documents Defendants May Use to Support Defense:

- 8 1. Homicide Report/Lethal Force Encounter Report;
- 9 2. Coroner Investigation Report;
- 10 3. Photographs of scene of incident;
- 11 4. Audio recording of 911 call and dispatch;
- 12 5. Audio and video recordings of witness interviews;
- 13 6. Audio and video recordings from officer body worn devices;
- 14 7. Evidence collected at scene of incident;
- 15 8. Aerial footage video of scene;
- 16 9. County training policies and records;
- 17 10. Depositions of the parties and witnesses; and
- 18 11. Responses to written discovery
- 19 12. Medical records of decedent
- 20 13. Inmate medical records of decedent

21 5. Damages:

22
23 Plaintiffs claim general and special compensatory damages, according to
24 proof at trial under federal and state law for their individual damages for the
25 wrongful death of Mr. Cernas, and Mr. Cernas's survival damages, including his
26 pre-death pain and suffering, loss of enjoyment of life, and loss of life. Plaintiffs
27 also seek punitive and exemplary damages against the individual Defendant
28 Deputies only. Plaintiffs also seek attorney's fees pursuant to 42 U.S.C. § 1988,

1 costs and interests incurred. Plaintiffs estimate damages in excess of \$30 million.

2 Defendants dispute that they were a cause of injury or damage to Plaintiffs

3 6. Insurance: The County of Los Angeles is a legally self insured entity.

4 Defendant, Deputy Maciel, is sued in his capacity as an employee of
5 the County of Los Angeles and in the course and scope of his
6 employment at the time of the incident which gives rise to this lawsuit.
7 Deputy Maciel has no policy of insurance which provides him coverage
8 for the damages claimed in this lawsuit.

9 7. Motions:

10 a. Procedural Motions

11 There are no pending motions. Plaintiffs anticipate naming the unnamed Doe
12 Defendants upon completion of initial discovery. Aside from this, the parties do not
13 anticipate bringing any motions to amend the pleadings, add parties or claims or
14 transfer venue.

15 b. Dispositive Motions

16 The parties have discussed potential motions and propose motion dates set
17 forth in the attached schedule. Plaintiffs may file a motion for summary judgment.
18 Defendants may file a Motion for Summary Judgment or Partial Summary Judgment
19 depending on the outcome of the discovery process. At this time, Defendants plan
20 to file a Motion for Summary Judgment on all claims. The Parties request that the
21 non-moving party have two weeks to oppose a motion for summary judgement. The
22 parties further anticipate bringing motions *in limine* based on the claims and
23 damages remaining at trial.

24 c. Class Certification Motion

25 The parties agree that this is not a class action law suit and therefore no
26 motion for class certification will be filed.

27 8. Manual for Complex Litigation:

28 The parties agree that this is not a complex case and is therefore not subject to

1 the Manuel for Complex Litigation.

2 9. Discovery:

3 a. *Status of Discovery*

4 Pursuant to Federal Rules of Civil Procedure Rule 26(a)(1)(c), the parties will
5 exchange initial disclosures on July 12, 2024. Documents will be produced
6 following issuance of a Protective Order.

7 b. Discovery Plan:

8 The parties have discussed the anticipated discovery and propose a discovery
9 schedule set forth in “Exhibit A” hereto. This schedule was compiled based upon the
10 trial calendars of counsel and their evaluation of the parties’ discovery needs.

11 Plaintiffs anticipate serving discovery regarding the County records regarding
12 the incident and taking the depositions of Los Angeles County Sheriff’s Department
13 (“LASD”) personnel who were present during the incident. Plaintiffs may also seek
14 to depose the individuals most knowledgeable of LASD’s policies and procedures
15 with regards to the use of deadly force. Further, Plaintiffs plan to retain experts who
16 will opine on, and potentially testify to, issues of liability, causation, and damages.
17 Plaintiffs anticipate serving written interrogatories, requests for admission, and
18 requests for production of documents.

19 Defendants anticipate discovery to Plaintiffs regarding their claimed loss and
20 damages which will include written discovery and depositions. Defendants will
21 retain experts on liability and damages.

22 The parties will also take the depositions of any experts or witnesses
23 identified by the other.

24 The parties do not see any issues regarding electronically stored information
25 pursuant to Rule 26(f)(3)(C) in this case.

26 The parties do not anticipate any changes to the limitations on discovery
27 imposed by the Federal Rules at this time, except that Plaintiffs may seek a
28 stipulation or leave to depose more witnesses than the 10 allowed under the Federal

Rules, if Plaintiffs learn through discovery that there were more LASD deputies who responded to the incident scene and may be material witnesses than Plaintiffs would otherwise be able to depose. Defendants are not requesting changes to the limitations on discovery imposed under the Federal Rules of Civil Procedure or Local Rules.

c. Discovery Cut-off:

The parties propose a fact discovery cut-off, including the resolution of all discovery motions, of May 14, 2025, which is also as set forth in Exhibit A hereto.

d. Expert Discovery:

The parties have discussed expert discovery and propose exchange dates of: Initial Expert Disclosure on May 28, 2025; Rebuttal Expert Disclosure on June 18, 2025; and Expert Discovery Cut-off of July 9, 2025. The dates for Initial and Rebuttal Expert Disclosure are also set forth in Exhibit A attached hereto.

The parties will simultaneously exchange their expert reports.

e. Settlement Conference/Alternative Dispute Resolution (ADR):

The parties have not had substantive settlement discussions.

The parties are agreeable to participating in ADR Procedure No. 2 (appearance before neutral selected from Court's Mediation Panel).

f. Trial

i. Trial Estimate:

The Parties estimate that the trial will take approximately 5-7 days.

ii. Jury Trial Requested.

The Parties demand a jury trial.

iii. Consent to Proceed before a Magistrate Judge:

The Parties do not consent to proceed before a Magistrate Judge.

iv. Trial Counsel:

Dale K. Galipo will be the lead trial counsel in this case for Plaintiffs.

Joseph Esposito, Janet L. Keuper and Nicole R. Castronovo will be the trial

attorneys for Defendants.

g. Independent Expert or Master:

The parties agree that this case does not require an independent expert or master.

r. Timetable:

Counsel have agreed to the dates in Exhibit A, which takes into account the trial availability for all counsel. Per the Court's order setting the Scheduling Conference, the parties have attached "Exhibit A: Schedule of Pretrial and Trial Dates Worksheet" hereto.

s. Other Issues:

At this time, there are no other issues that require the Court's attention.

Respectfully submitted,

Dated: June 17, 2024

LAW OFFICE OF DALE K. GALIPO

By /s/ Shannon J. Leap

Dale K. Galipo

Renee V. Masongsong

Shannon J. Leap¹

Attorneys for Plaintiffs

DATED: June 17, 2024

CARRILLO LAW FIRM, LLP

By /s/ Michael S. Carrillo

Luis A. Carrillo

Michael Carrillo

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¹ As the filer of this document, I attest that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

1 Dated: June 20, 2024

SEKI, NISHIMURA & WATASE, PLC

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3 By /s/ Janet L. Keuper

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